

(b) Except as provided in § 72.23, no objection or other communication submitted to the Administrator or the permitting authority concerning the authorization, or any submission, action or inaction, of the designated representative shall affect any submission, action, or inaction of the designated representative, or the finality of any decision by the Administrator or permitting authority, under the Acid Rain Program. In the event of such communication, the Administrator and the permitting authority are not required to stay any allowance transfer, any submission, or the effect of any action or inaction under the Acid Rain Program.

(c) Neither the Administrator nor any permitting authority will adjudicate any private legal dispute concerning the authorization or any submission, action, or inaction of any designated representative, including private legal disputes concerning the proceeds of allowance transfers.

Subpart C—Acid Rain Permit Applications

§ 72.30 Requirement to apply.

(a) *Duty to apply.* The designated representative of any source with an affected unit shall submit a complete Acid Rain permit application by the applicable deadline in paragraphs (b) and (c) of this section, and the owners and operators of such source and any affected unit at the source shall not operate the source or unit without a permit that states its Acid Rain program requirements.

(b) *Deadlines.* (1) *Phase 1.* (i) The designated representative shall submit a complete Acid Rain permit application governing an affected unit during Phase I to the Administrator on or before February 15, 1993 for:

(A) Any source with such a unit under § 72.6(a)(1); and

(B) Any source with such a unit under § 72.6(a) (2) or (3) that is designated a substitution or compensating unit in a substitution plan or reduced utilization plan submitted to the Administrator for approval or conditional approval.

(ii) Notwithstanding paragraph (b)(1)(i) of this section, if a unit at a

source not previously permitted is designated a substitution or compensating unit in a submission requesting revision of an existing Acid Rain permit, the designated representative of the unit shall submit a complete Acid Rain permit application on the date that the submission requesting the revision is made.

(2) *Phase II.* (i) For any source with an existing unit under § 72.6(a)(2), the designated representative shall submit a complete Acid Rain permit application governing such unit during Phase II to the permitting authority on or before January 1, 1996.

(ii) For any source with a new unit under § 72.6(a)(3)(i), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority at least 24 months before the later of January 1, 2000 or the date on which the unit commences operation.

(iii) For any source with a unit under § 72.6(a)(3)(ii), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority at least 24 months before the later of January 1, 2000 or the date on which the unit begins to serve a generator with a nameplate capacity greater than 25 MWe.

(iv) For any source with a unit under § 72.6(a)(3)(iii), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority at least 24 months before the later of January 1, 2000 or the date on which the auxiliary firing commences operation.

(v) For any source with a unit under § 72.6(a)(3)(iv), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority before the later of January 1, 1998 or March 1 of the year following the three calendar year period in which the unit sold to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis).

(vi) For any source with a unit under § 72.6(a)(3)(v), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority before the later of January 1, 1998 or March 1 of the year following the calendar year in which the facility fails to meet the definition of qualifying facility.

(vii) For any source with a unit under § 72.6(a)(3)(vi), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority before the later of January 1, 1998 or March 1 of the year following the calendar year in which the facility fails to meet the definition of an independent power production facility.

(viii) For any source with a unit under § 72.6(a)(3)(vii), the designated representative shall submit a complete Acid Rain permit application governing such unit to the permitting authority before the later of January 1, 1998 or March 1 of the year following the three calendar year period in which the incinerator consumed 20 percent or more fossil fuel (on a Btu basis).

(3) *Acid Rain Compliance Option Deadlines.* The deadlines for applying for approval of any Acid Rain compliance options shall be the deadlines specified in the relevant section of subpart D of this part and in section 407 of the Act and regulations implementing section 407 of the Act.

(c) *Duty to reapply.* The designated representative shall submit a complete Acid Rain permit application for each source with an affected unit at least 6 months prior to the expiration of an existing Acid Rain permit governing the unit during Phase II or an opt-in permit governing an opt-in source or such longer time as may be approved under part 70 of this chapter that ensures that the term of the existing permit will not expire before the effective date of the permit for which the application is submitted.

(d) The original and three copies of all permit applications for Phase I and where the Administrator is the permitting authority, for Phase II, shall be submitted to the EPA Regional Office for the Region where the affected source is located. The original and

three copies of all permit applications for Phase II, where the Administrator is not the permitting authority, shall be submitted to the State permitting authority for the State where the affected source is located.

[58 FR 3650, Jan. 11, 1993, as amended at 58 FR 15649, Mar. 23, 1993; 60 FR 17113, Apr. 4, 1995]

§ 72.31 Information requirements for Acid Rain permit applications.

A complete Acid Rain permit application shall include the following elements in a format prescribed by the Administrator:

(a) Identification of the affected source for which the permit application is submitted;

(b) Identification of each Phase I unit at the source for which the permit application is submitted for Phase I or each Phase II unit at the source for which the permit application is submitted for Phase II;

(c) A complete compliance plan for each unit, in accordance with subpart D of this part;

(d) The standard requirements under § 72.9; and

(e) If the Acid Rain permit application is for Phase II and the unit is a new unit, the date that the unit has commenced or will commence operation and the deadline for monitor certification.

§ 72.32 Permit application shield and binding effect of permit application.

(a) Once a designated representative submits a timely and complete Acid Rain permit application, the owners and operators of the affected source and the affected units covered by the permit application shall be deemed in compliance with the requirement to have an Acid Rain permit under § 72.9(a)(2) and § 72.30(a); *provided* that any delay in issuing an Acid Rain permit is not caused by the failure of the designated representative to submit in a complete and timely fashion supplemental information, as required by the permitting authority, necessary to issue a permit.

(b) Prior to the earlier of the date on which an Acid Rain permit is issued subject to administrative appeal under part 78 of this chapter or is issued as a

final agency action subject to judicial review, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete Acid Rain permit application shall be deemed to be operating in compliance with the Acid Rain Program.

(c) A complete Acid Rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an Acid Rain permit from the date of submission of the permit application until the issuance or denial of an Acid Rain permit covering the units and subject to administrative appeal, where the Administrator is the permitting authority, or the issuance or denial of such permit as a final agency action subject to judicial review, where the State is the permitting authority.

§ 72.33 Identification of dispatch system.

(a) Every Phase I unit shall be treated as part of a dispatch system for purposes of §§ 72.91 and 72.92 in accordance with this section.

(b)(1) The designated representatives of all affected units in a group of all units and generators that are interconnected and centrally dispatched and that are included in the same utility system, holding company, or power pool, may jointly submit to the Administrator a complete identification of dispatch system.

(2) Except as provided in paragraph (f) of this section, each unit or generator may be included in only one dispatch system.

(3) Any identification of dispatch system must be submitted by January 30 of the first year for which the identification is to be in effect.

(c) A complete identification of dispatch system shall include the following elements in a format prescribed by the Administrator:

(1) The name of the dispatch system.

(2) The list of all units and generators (including sulfur-free generators) in the dispatch system.

(3) The first calendar year for which the identification is to be in effect.

(4) The following statement: "I certify that, except as otherwise required under a petition as approved under 40 CFR 72.33(f), the units and generators listed herein are and will continue to be interconnected and centrally dispatched, and will be treated as a dispatch system under 40 CFR 72.91 and 72.92, during the period that this identification of dispatch system is in effect. During such period, all information concerning these units and generators and contained in any submissions under 40 CFR 72.91 and 72.92 by me and the other designated representatives of these units shall be consistent and shall conform with the data in the dispatch system data reports under 40 CFR 72.92(b). I am aware of, and will comply with, the requirements imposed under 40 CFR 72.33(e)(2)."

(5) The signatures of the designated representative for each affected unit in the dispatch system.

(d) In order to change a unit's current dispatch system, complete identifications of dispatch system shall be submitted for the unit's current dispatch system and the unit's new dispatch system, reflecting the change.

(e)(1) Any unit or generator not listed in a complete identification of dispatch system that is in effect shall treat its utility system as its dispatch system and, if such unit or generator is listed in the NADB, shall treat the utility system reported under the data field "UTILNAME" of the NADB as its utility system.

(2) During the period that the identification of dispatch system is in effect all information that concerns the units and generators in a given dispatch system and that is contained in any submissions under §§ 72.91 and 72.92 by designated representative of these units shall be consistent and shall conform with the data in the dispatch system data reports under § 72.92(b). If this requirement is not met, the Administrator may reject all such submissions and require the designated representatives to make the submissions under §§ 72.91 and 72.92 (including the dispatch system data report) treating the utility system of each unit or generator as its respective dispatch system and treating the identification of dispatch system as no longer in effect.